

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EVERCARE CHOICE, INC.,

Plaintiff,

v.

PKF O'CONNOR DAVIES, LLP; O'CONNOR DAVIES,
LLP; O'CONNOR DAVIES MUNNS & DOBBINS, LLP;
and Individuals THOMAS P. KENNEDY; CHRISTOPHER
J. MCCARTHY; MICHAEL J. SUAREZ; GARRETT M.
HIGGINS; DOROTHEA RUSSO, AND JOHN DOES 1-
10,

Defendants.

Civil Case No.: 7:20-cv-02733-
PMH

NOTICE OF MOTION
FOR AN ORDER STAYING
OR DISMISSING
THIS ACTION AND
COMPELLING
MEDIATION AND
ARBITRATION

PLEASE TAKE NOTICE that upon this Notice of Motion, the accompanying Memorandum of Law, and the Declaration of Thomas R. Manisero dated December 7, 2020, Defendants PKF O'Connor Davies, LLP (O'Connor Davies, LLP and O'Connor Davies Munns & Dobbins, LLP are former names of the firm now known as PKF O'Connor Davies, LLP), Thomas P. Kennedy, Christopher J. McCarthy, Michael J. Suarez, Garrett M. Higgins and Dorothea Russo, move this Court, in accordance with the Local Civil Rules of the Southern District and the Individual Practices of the Honorable Philip M. Halpern, United States District Judge, for an Order pursuant to Fed. R. Civ. P. 12(b)(1) and Sections 3 and 4 of the Federal Arbitration Act, 9 U.S.C. §§ 3, 4 staying or dismissing this action and compelling plaintiff to submit its claims for mediation and arbitration on the grounds that all of the alleged claims are governed by mediation and arbitration clauses agreed between the parties, and granting such other and further relief that this Court deems just and proper. Movant intends to file and serve reply papers to Plaintiff's opposition papers.

Dated: White Plains, New York
December 7, 2020

Respectfully submitted,

WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP

By: /s/ Thomas R. Manisero
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